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Attorneys for Plaintiffs

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

E.R.K., by his legal guardian
R.K.; R.T.D., through his
parents R.D. and M.D.; HAWAII
DISABILITY RIGHTS CENTER,
in a representative capacity on
behalf of its clients and all
others similarly situated,

Plaintiffs,

Case No. 10-00436 SOM-KSC

**PLAINTIFFS' MOTION FOR
AWARD OF COMPENSATORY
EDUCATION AND
APPOINTMENT OF SPECIAL
MASTER; MEMORANDUM IN
SUPPORT OF MOTION;
DECLARATION OF PAUL
ALSTON; EXHIBITS A-B;**

vs.

DEPARTMENT OF EDUCATION,
State of Hawai'i,

Defendant.

REQUEST FOR JUDICIAL
NOTICE; EXHIBITS C-G;
CERTIFICATE OF SERVICE

**PLAINTIFFS' MOTION FOR AWARD OF COMPENSATORY
EDUCATION AND APPOINTMENT OF SPECIAL MASTER**

In 2010, the Department of Education ("DOE") illegally halted all special education and related services (collectively, "SPED") for students aged 20-22 pursuant to a new Hawai'i statute (Act 163). After losing their Act 163 challenge in this Court, the Plaintiffs won in the Ninth Circuit. It is now indisputable that: (1) the Individuals with Disabilities Education Act ("IDEA") prohibits the termination of SPED before age 22 to those who have not exhausted their entitlement to a Free and Appropriate Public Education by obtaining a regular high school diploma; and (2) based upon Act 163, the DOE illegally deemed all the Plaintiffs ineligible for SPED after they turned 20—fully two years too early.

It is also clear that the DOE has done nothing to cure its mistreatment of most of the Class Members. Those who were under 20 when the Ninth Circuit ruled in August 2013 have been allowed

to continue their schooling, but nothing has been done for the majority of the Class.

Why?

The DOE contends that this Court is powerless to provide any post-remand relief to the Class Members. As the DOE made clear to Magistrate Judge Chang, it believes this case is "over" and the Court can do nothing more. Rather, the DOE contends, Class Members must individually pursue their entitlement to compensatory education by individually approaching the DOE and asking for additional services.

Because Plaintiffs brought this case to enforce their rights under the IDEA and the Ninth Circuit has upheld their claims, Plaintiffs ask the Court to (1) confirm and enforce the Class Members' right to compensatory education, and (2) appoint a master to oversee the awards of compensatory education for all qualifying Class Members.

Plaintiffs bring this Motion pursuant to Rules 7 and 53 of the Federal Rules of Civil Procedure. The Motion is based on the attached memorandum, declaration, request for judicial notice, and exhibits attached hereto, and such further argument and

information to be adduced at a hearing on this motion and/or further briefing.

DATED: Honolulu, Hawai'i, June 16, 2014.

/s/ Paul Alston
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